SEP 25 1967
JOHN F. DAVIS, CLERK

NO. 9, ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, 1967

UNITED STATES OF AMERICA, Plaintiff

v.

STATE OF LOUISIANA, ET AL

MOTION BY THE STATE OF LOUISIANA TO LIMIT THE QUESTION TO BE CONSIDERED ON THE MOTION OF THE UNITED STATES FOR A SUPPLEMENTAL DECREE AS TO THE STATE OF TEXAS AND MEMORANDUM IN SUPPORT OF MOTION

JACK P. F. GREMILLION
Attorney General
State of Louisiana
2201 State Capitol
Baton Rouge, Louisiana
VICTOR A. SACHSE
PAUL M. HEBERT
THOMAS W. LEIGH
W. SCOTT WILKINSON
J. B. MILLER
OLIVER P. STOCKWELL
J. J. DAVIDSON
FREDERICK W. ELLIS
Special Assistants,
Attorney General
State of Louisiana
JOHN L. MADDEN
Assistant Attorney General
State of Louisiana

In the Supreme Court of the United States

OCTOBER TERM, 1967

NO. 9, ORIGINAL

UNITED STATES OF AMERICA, Plaintiff

v.

STATE OF LOUISIANA, ET AL

MOTION BY THE STATE OF LOUISIANA TO LIMIT THE QUESTION TO BE CONSIDERED ON THE MOTION OF THE UNITED STATES FOR A SUPPLEMENTAL DECREE AS TO THE STATE OF TEXAS

1. The United States has moved for a Supplemental Decree against the State of Texas to limit its water boundary in the Gulf of Mexico to three leagues from land as it existed in 1845 when Texas became a State of the Union without regard to artificial structures built after 1845.

2. The State of Louisiana has been served with the pleadings and briefs of the United States in support of its Motion. Although the captioned litigation began in 1955 as a suit by the United States against the State of Louisiana only, Louisiana is not properly a party to the limited issue between the United States and the State of Texas.

3. Resolution of the present Texas-United States

controversy should not be permitted to have any impact on the separate dispute still existing between the United States and Louisiana concerning location of Louisiana's coast line, or on Texas-Louisiana boundary questions.

4. Any consideration of the water boundary of any State in the Gulf of Mexico should not be permitted to affect determination of the water boundary of any other State on the Gulf of Mexico, even though Louisiana and Texas adjoin one another.

5. In the brief of the United States filed in these proceedings, the question presented is:

> "Whether Texas' offshore submerged lands, which are delimited under the Submerged Lands Act by Texas' three-league boundary 'as it existed' when Texas became a State in 1845, extend three leagues from artificial structures built after 1845" (U.S. Brief, p. 2),

though it is understood that the United States does not seek to deny to Texas the benefit of natural accretion.

Texas has not filed its brief at the time of the preparation of this Motion.

6. If the question is limited to that which the United States has stated in its brief and which is quoted above, Louisiana is not involved in this present Motion of the United States, as the 1845 admission of Texas related only to that State and the United States.

7. Louisiana has filed contemporaneously with this pleading a Motion for Entry of Supplemental Decree No. 2 seeking the recognition of the location of Louisiana's coast line.

8. If because of pleadings filed by the United States or by Texas or by the briefs of either the Court considers that the issues are broader than that stated in the Government's brief, and the Court does not see fit to limit such issues to that so stated, then these proceedings should be delayed until the State of Louisiana can be fully heard.

WHEREFORE, Louisiana prays that the State of Louisiana be not considered a party to litigation between the United States and the State of Texas, that any decision on the subject Motion filed by the United States against Texas be confined solely to the question as to "whether Texas' offshore submerged lands, which are delimited under the Submerged Lands Act by Texas' three-league boundary 'as it existed' when Texas became a State in 1845, extend three leagues from artificial structures built after 1845", without prejudice to the right of natural accretion, and that such decision be without prejudice to the claims of Louisiana as to the location of its coast line.

Further, if the issues presented to the Court go beyond the question presented by the United States quoted herein, that proceedings on the Motion of the United States for a Supplemental Decree as to the State of Texas be delayed until Louisiana can be fully

heard as to the location of its coast line contradictorily with the United States.

JACK P. F. GREMILLION
Attorney General
State of Louisiana
2201 State Capitol
Baton Rouge, Louisiana
VICTOR A. SACHSE
PAUL M. HEBERT
THOMAS W. LEIGH
W. SCOTT WILKINSON
J. B. MILLER
OLIVER P. STOCKWELL
J. J. DAVIDSON
FREDERICK W. ELLIS
Special Assistants,
Attorney General
State of Louisiana
JOHN L. MADDEN
Assistant Attorney General
State of Louisiana

In the Supreme Court of the United States

OCTOBER TERM, 1967

NO. 9, ORIGINAL

UNITED STATES OF AMERICA, Plaintiff

v.

STATE OF LOUISIANA, ET AL

MEMORANDUM OF STATE OF LOUISIANA IN SUPPORT OF ITS MOTION

After the passage of the Submerged Lands Act, the United States brought suit in this Court against Louisiana to determine whether Louisiana was entitled to a three-league submerged lands boundary under the Act. After consideration of the various motions of the parties and of the amicus curiae brief of Texas, the Court found that,

> "The issues in this litigation are so related to the possible interests of Texas, and other states situated in the Gulf of Mexico, in the subject matter of this suit, that the just, orderly, and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court." (354 U. S. 515, 516, 77 Sup. Ct. 1373 [1957])

Accordingly, the Court granted leave to all the Gulf Coast States to intervene in the suit and to the United States to amend its petition to bring into the

Court such of the Gulf States as did not intervene, 354 U.S. 515, 77 Sup. Ct. 1373 (1957).

Thereafter, the Court adjudicated in a single proceeding the claims of Louisiana, Texas, Mississippi, Alabama, and Florida, 363 U. S. 1, 80 Sup. Ct. 961 (1960), but reserved jurisdiction for such further proceedings as might be necessary to give force and effect to the opinion and decree, 364 U. S. 502, 81 Sup. Ct. 258 (1960).

One supplemental decree has been issued by the Court since the 1960 decree. Among other things, the United States conceded that Louisiana's coast line was more seaward at certain points than it had theretofore asserted. Since the decree specifically stated that it was without prejudice to any of the claims of Louisiana with respect to the remainder of the disputed area, Louisiana did not object. The decree, 382 U. S. 288, 86 Sup. Ct. 419 (1965), was rendered without submission of briefs and without oral argument.

Although the United States represented in its memorandum in support of the 1965 decree that it would shortly request from the Court an additional supplemental decree as to Louisiana, it has not yet done so. Instead, it has shifted its concern to the Texas boundary and now seeks an adjudication concerning the Texas coast line. In its brief the United States has stated that the question presented in its controversy with Texas is,

> "Whether Texas' offshore submerged lands, which are delimited under the Submerged Lands Act

> by Texas' three-league boundary 'as it existed' when Texas became a State in 1845, extend three leagues from artificial structures built after 1845" (U. S. Brief, p. 2),

and it does not seek to prejudice the right of the States to the benefit of natural accretion.

If the issue is so limited, Louisiana does not need to participate in such a limited controversy affecting only the State of Texas, but if the issues are broadened so that Louisiana may be affected, proceedings should be stayed to afford Louisiana a proper opportunity to be fully heard on its Motion for Supplemental Decree No. 2 which it is now filing.

The coast line of Louisiana is of great importance to the State and to the Nation in many aspects not wholly related, if at all, to the minerals in the submerged lands and should be considered only when directly in issue as is the case with respect to Louisiana's Motion for Supplemental Decree No. 2. Just as this Court deferred consideration of the initial suit against Louisiana because of "the possible interests of Texas" so should the interests of Louisiana be safeguarded. Decision of the United States-Texas controversy, when limited to the question presented by the Government, does not require an adjudication as to the definition of inland waters, and Louisiana is not properly a party to such a limited controversy.

Louisiana contends that its coast line is the line designated and defined by agencies of the United States and accepted and approved by the Legislature of Louisiana by Act 33 of 1954. If that line had not been so designated and approved, it would be necessary that a line be designated on the basis of hydrological, geological, engineering, historical, economic, geograph-

ical, navigational and other facts, many of which would be disputed.

Louisiana must anticipate that the United States will oppose Louisiana's Motion for Supplemental Decree No. 2 and will raise questions concerning dredged channels, jetties, harbor works and inland waters; such issues should not be considered in the United States-Texas controversy. Hence, the controversy between the United States and Texas should be strictly limited to the question presented by the United States in its brief, as above stated, or, if the issues are broadened, the Court should grant the requested stay so that Louisiana's position may be fully heard on its own Motion for Supplemental Decree No. 2.

Respectfully submitted,

JACK P. F. GREMILLION
Attorney General
State of Louisiana
2201 State Capitol
Baton Rouge, Louisiana
VICTOR A. SACHSE
PAUL M. HEBERT
THOMAS W. LEIGH
W. SCOTT WILKINSON
J. B. MILLER
OLIVER P. STOCKWELL
J. J. DAVIDSON
FREDERICK W. ELLIS
Special Assistants,
Attorney General
State of Louisiana
JOHN L. MADDEN
Assistant Attorney General
State of Louisiana

PROOF OF SERVICE

I, the Attorney General of the State of Louisiana, certify that copies of the foregoing motion and memorandum have been properly served on the ____ day of September, 1967, by mailing copies, sufficient postage prepaid, to the offices of the Attorney General and of the Solicitor General of the United States, respectively, in the Department of Justice Building, Washington 25, D. C.
